



state senator
Ryan Mishler

2006 LEGISLATIVE UPDATE

Indiana Senate
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FACTS & FIGURES

FROM THE 2006 LEGISLATIVE SESSION

The Second Regular Session of the 114th General Assembly began on Organization Day, November 22, 2005, and adjourned March 14, 2006.

Senate bills introduced: 394
Senate joint resolutions introduced: 14

Senate bills passed: 107
Senate joint resolutions passed: 1

House bills introduced: 443
House joint resolutions introduced: 4

House bills passed: 86
House joint resolutions passed: 0

Percent of introduced bills that were sent to the governor: 23%

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SENATOR RYAN MISHLER

serving district 9: Elkhart, Kosciusko, Marshall, and St. Joseph counties

2006 LEGISLATIVE UPDATE



Too Many Major Moves Questions Left Unanswered

Few dispute that Indiana's highway system needs improvement. Highway projects large and small are lined up all across the state, but funding for the projects has not been available. Governor Mitch Daniels reviewed the list of proposed projects and identified a funding gap of at least \$2.8 billion.

Besides I-69, important state construction projects include an upgrade of U.S. 31 between South Bend and Indianapolis, "Fort to Port" (to improve U.S. 24 east of Ft. Wayne into Ohio), the Hoosier Heartland Corridor, and at least two bridges over the Ohio River in southern Indiana.

Funding options included increasing gasoline taxes, which was not a popular option. Another included bonding, using future highway revenue from the federal government and also increased toll road receipts as a way to pay off the bonds. Adding such heavy debt obligations to the state budget was not a popular option, either. Also, it is unlikely that sufficient funds could be raised using this method to fill the funding gap.

"Voting 'no' on this bill was difficult because of the need to improve the highway system across the state, specifically in northern Indiana."

Governor Daniels set forth a 10-year highway construction proposal, called "Major Moves." Detailed information is provided through this internet link: <http://www.in.gov/gov/majormoves/glance.html>.

This proposal had two main funding sources. The first was the 75-year lease of the Indiana Toll Road to an Australian-Spanish consortium. Their bid should yield \$3.8 billion to the state to fill that highway funding gap. The second source used "public-private partnerships" (P3s) with tolling for new highway construction, especially for the construction of I-69 between Indianapolis and Evansville.

The final version of House Enrolled Act 1008 had some differences. It allowed for a P3 for I-69 with tolling, but only between Evansville and Martinsville, located about 40 miles southwest of Indianapolis. Any tolls between Martinsville and Indianapolis would first require the approval of the General Assembly. Similar approval would be required for the north end of I-69 to pass through Perry Township in Indianapolis.

Elkhart and St. Joseph Counties will benefit from receiving \$40,000,000 each from lease proceeds, but residents would continue to pay tolls on I-80/90. Several of us fought for an income tax credit which would reimburse toll road users who file Indiana income tax returns for tolls paid, up to \$300 per person. Although tax credit language passed the Senate, it was not included in the final version of the bill.

According to a Dec. 6, 1953, Indianapolis Times newspaper article, "Indiana's east-west toll road will be paid off by sometime in 1976, if engineers' estimates of earnings stand up." The toll road has been a great benefit to the state of Indiana since it opened in 1956, a fact that has not been sufficiently recognized.

Voting "no" on the bill was difficult, nevertheless, because of the need to improve the highway system across the state, specifically northern Indiana. The questions raised by citizens in northern Indiana and across the whole state have been honest and fair. Many of these questions were answered, but not enough to sway my vote.

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SENATE DISTRICT 9 TO SHARE \$91 MILLION FROM MAJOR MOVES

- **Elkhart County - \$43,447,960**
(Includes \$40 million toll road county grant)
- **Kosciusko County - \$2,022,747**
- **Marshall County - \$1,499,376**
- **St. Joseph County - \$44,632,684**
(Includes \$40 million toll road county grant)

Eminent Domain Law Protects Property Owners

The right to own property is fundamental to the American way of life. We are all familiar with the concept of "life, liberty, and the pursuit of happiness" set out in our Declaration of Independence. However, at the time the Declaration was issued, many Americans listed such basic God-given human rights as "life, liberty and property."

Last summer, the U.S. Supreme Court issued a ruling that threatens the right to own property. In *Kelo v. City of New London*, the court said that government may "take" private property for economic development. In other words, as then-Justice Sandra Day O'Connor wrote, "Nothing is to prevent the state from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory."

The Supreme Court, however, left a loophole, saying legislatures may further restrict the use of eminent domain. This year, the General Assembly did exactly that.

House Enrolled Act 1010 improved Indiana eminent domain statutes in a number of ways.

Perhaps most importantly, the new law requires the reason for using eminent domain be something that benefits the public. Thus, eminent domain can be used for a legitimate government purpose-but not simply to increase a local government's tax base.

The new law does several other things, including placing time restrictions on eminent domain so that property owners are not left in limbo for years at a time; requiring just compensation for Hoosier property owners; and mandating good-faith negotiations between the condemner and the property owner.

When used appropriately, eminent domain is an important tool that can help provide anything from roads to parks to schools for public use. HEA 1010 ensures that this tool is not abused at the expense of Hoosiers' right to own private property.

Indiana a Leader in Biofuels

In the 2005 legislative session, our Clean Indiana Energy bill put Indiana at the forefront as a leader in new fuel technology. Currently, six ethanol plants have broken ground in Indiana with another 18 on the drawing board.

This is a growing industry. Other states are starting to see the benefits of investing in alternative fuels. Clean Indiana Energy II, Senate Enrolled Act 353, ensures Indiana remains a leader in this area.

The push for alternative fuels has particularly benefited northern Indiana. Biofuel plants in northern Indiana include facilities in Clymers (Cass County), Rensselaer (Jasper County), and Claypool (Kosciusko County). The biodiesel plant currently under construction in Claypool will be the largest such facility in the world. In addition to bringing jobs to the area, these alternative fuels have the potential to lower fuel prices and raise profits for corn and soybean farmers.

SEA 353 establishes a \$50 million tax credit, up from \$20 million, for new ethanol and/or biodiesel production facilities. Ethanol production plants cost approximately \$79 million or more to build, and the companies don't receive tax breaks until they are making a profit in our state.

Ethanol and biodiesel production has a very positive impact on Indiana farmers. Indiana is the fifth largest state in corn production and fourth largest in soybeans. These are the two key dynamics associated with ethanol/biodiesel production.

Currently, Indiana sends nearly 50 percent of corn and soybean productions out of state with no values added. This is the least profitable form of sale for farmers. It is estimated that farmers contracting with ethanol or biodiesel plants will gain an additional 5 cents to 10 cents per bushel.

SEA 353 also establishes a retail tax credit

“The push for alternative fuels has benefited northern Indiana. Several biofuel plants in the area are providing jobs to local Hoosiers.”



Senator Mishler debates a bill in the Senate Chamber.

of 10 cents per gallon of E85 fuel sold to consumers, up to a maximum of \$2 million over the next two years. If retailers reach the maximum credit, then Indiana will have sold over 20 million gallons of E85 in two years. This is a great incentive for retailers to encourage consumers to purchase E85 fuels.

Indiana is leading the nation with the highest number of E85 fueling stations. Our goal is to double our current numbers for a total of 40 E85 fueling stations in the state of Indiana at the end of 2006.

SEA 353 also extends the current B20 retail tax credit through 2010 and requires the Indiana Economic Development Corporation to work with GPS software companies to include E85 fueling stations on GPS software.

This is amazing progress in such a short period of time. I am very proud of the fact that Indiana is leading the nation in this industry, and this legislation will only add to our advantage.

Places to Pump Several E85 pumps are in service in north central Indiana

Station	City	County	Address
Freedom Express	Warsaw	Kosciusko	425 Argonne Road
Bell-Mart	Wakarusa	Elkhart	2010 Waterford St.
Freedom Express	Etna Green	Kosciusko	109 W. State St.
J.M. Reynolds Oil Co.	Wabash	Wabash	395 South Huntington St.
Citgo	Mishawaka	St. Joseph	12495 McKinley Hwy.
Citgo	Elkhart	Elkhart	1129 Johnson St.

GENERAL ASSEMBLY APPROVES \$100 MILLION PROPERTY TAX RELIEF BILL

As estimates for property tax increases this year came rolling in at the end of 2005, members of the General Assembly thought property taxpayers could use a break from expected increases. This year, HEA 1001 provides that relief by dedicating \$100 million to subsidize property tax bills.

This move could mean that homeowners will see no increase from their 2005 tax bills. Early estimates suggested hikes as high as 12 percent, but most experts thought increases would be around 5 percent. HEA 1001 will keep any increases reasonable, and may flatline many bills.

In addition to providing immediate property tax relief, HEA 1001 sets the stage for a long-term solution to high property tax bills. The new law states that by 2010, property taxes must be capped at 2 percent of assessed value. In order to replace any revenue that could be lost as a result of this move, the General Assembly in future years will have to find a permanent way to replace property tax revenue.

The Senate voted in a bipartisan fashion this year to lower property tax revenue by 20 percent by increasing local income taxes, but that proposal ultimately did not become law.



Senator Mishler discusses legislation with Senator Vic Heinold (R-Kouts).

HEA 1001 aids property taxpayers, but is also a pro-business law. The legislation phases in a single sales factor tax by 2011. This means payroll and property factors will no longer be used in figuring corporate taxes. With a single sales factor, businesses will no longer be penalized for owning property or having large payrolls in Indiana.

The out-of-state utility services tax will help Indiana utility companies compete with others by subjecting out-of-state utility companies to the same taxes as Indiana companies face.

In the end, HEA 1001 is a very positive move for Hoosier taxpayers and Hoosier businesses.

Telecom Law Could Save Money on Cable Bills

While much of the discussion in this year's session centered on physical infrastructure like roads and bridges, the General Assembly made a historic change in its unseen infrastructure. Through reforms made in House Enrolled Act 1279, Indiana will see lower cable prices, increased competition and a wave of investment in the state.

Experts have called HEA 1279 the most aggressive telecommunications reform in the nation and say it will likely be a model that other states are sure to follow. The bill includes several provisions designed to give Hoosiers access to the best technology at a reasonable price. It contains two major provisions:

Statewide Video Franchising - Following the model used in Texas, HEA 1279 creates a streamlined process through which video providers (such as cable companies) can enter

a market and compete for customers. Known as statewide video franchising, this process will result in more video competition and lower prices for consumers. Since September, when Texas statewide franchising went into effect, more than 120 franchises have been granted to competing companies.

HEA 1279 will eliminate the current virtual monopoly of cable providers and give most Hoosiers a choice in video service. In February, Ball State University's Digital Policy Institute released a study saying Hoosiers could save \$262 million on their cable bills annually as a result of new choices.

Telephone deregulation - A recent survey of CEOs in Site Selection Magazine showed that access to high-speed communications is the most important factor in drawing new business development to a particular state. HEA 1279

encourages telephone companies to deploy more high-speed Internet, called broadband, by gradually deregulating basic phone services if broadband is made available. Companies must be able to offer high speed Internet to 50 percent of households in any given exchange before they can raise rates in that exchange. Monthly basic rates may increase by only \$1 per year until 2009.

The new law protects for low-income Hoosiers by establishing the Indiana "Life Line" program to provide discounted telephone rates to Hoosiers below 150 percent of the federal poverty level. This supplements the federal program, which aids consumers with a household income below 135 percent of the federal poverty level. Consumers will also be protected through a ban on "local measured service," the practice of charging for local calls by the minute.

Independent think-tank FreedomWorks has said HEA 1279 will create 20,000 new jobs and \$7 billion in investment in Indiana. This was a rare opportunity to create jobs while lowering prices and improving customer satisfaction.



Senator Mishler signs papers at his desk.